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WILLIAM H. HANNETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

According to Title VII of the Civil Rights Act of 1964, an employer is defined as “a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person...” where a person is defined as “one or more individuals, governments, governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives...”. See www.eeoc.gov/policy/vii.html. Accordingly, for the “current” year of 2005 (the year in which Colonial discriminated against Plaintiff), Defendant The Colonial Bancgroup published in its 10-K filing that “at December 31, 2005, BancGroup and its subsidiaries employed 4,607 persons.” See excerpt from 2005 10-K filing attached as Exhibit 1. Likewise, for the “preceding year” of 2004, Defendant The Colonial Bancgroup published in its 10-K filing that “at December 31, 2004, BancGroup and its subsidiaries employed 4,303 persons.” See excerpt from 2004 10-K filing attached as Exhibit 2.

As a result, Defendant's argument that "BancGroup did not employ fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year..." is invalid and Plaintiff considers this just cause why the Defendant's Motion should not be granted. Furthermore, Defendant's Motion makes reference to an "Affidavit of Tara Gibson" as attached Exhibit 1 which was not attached and has not been reviewed by the pro se plaintiff by virtue of its omission. Therefore, Plaintiff has relied on published information available to the general public that was filed with the SEC (Securities and Exchange Commission) by the Defendant to determine compliance with the definition of employer according to Title VII of the Civil Rights Act of 1964.

WHEREFORE, PREMISES CONSIDERED Plaintiff Kitty Graham respectfully requests that this Court deny Defendant's Motion to dismiss.

Done this 8th day of May, 2006.

Kitty Graham
Signature of Plaintiff Kitty Graham

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Address and Telephone Number of Plaintiff